

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOEL TOLBERT,  
Plaintiff,  
v.

ANTIOCH POLICE DEPARTMENT, et al.,  
Defendants.

Case No. [22-cv-02026-JSC](#)

**ORDER GRANTING IN PART  
EXTENSION OF TIME; GRANTING  
MOTION TO SERVE UNSERVED  
DEFENDANT AND VACATING  
DISMISSAL OF CCCDHS; TO SHOW  
CAUSE REGARDING MOTION TO  
COMPEL**

Re: Dkt. Nos. 90, 92, 94

This is a civil rights action filed by a California prisoner proceeding without an attorney. Defendants are the Antioch Police Department (“APD”), APD Chief Allan Cantando, and APD Officers James Colley and James Perkinson. Now pending before the Court is Plaintiff’s motion for an extension of time to file an opposition to Defendants’ motion for summary judgment, his motion to order service upon unserved Defendant Contra Costa County Detention Health Service (“CCCDHS”), and his motion to compel discovery. (ECF Nos. 90, 92, 94.)

Good cause appearing, Plaintiff’s motion for an extension of time of 75 days to file an opposition to Defendants’ motion for summary judgment is GRANTED IN PART. (ECF No. 94.) A 60-day extension of time will suffice, and the opposition is due on or before **August 9, 2024**. Defendants shall file a reply on or before **August 23, 2024**.

In the order of service, the Court determined Plaintiff stated a claim capable of judicial determination against Defendant CCCDHS. (ECF No. 9.) Because well over 120 days passed and Plaintiff had neither provided the Court with an address to serve CCCDHS or served this CCCDHS himself, the claim against CCCDHS was dismissed under Rule 4(m) without prejudice. (ECF No. 62 at 2.) Plaintiff has submitted an address for CCCDHS, and good cause appearing, the motion to serve CCCDHS is GRANTED. (ECF No. 90.) The dismissal of CCCDHS is

VACATED. and CCCDHS is ordered served below.

The Court orders as follows:

1. The Clerk shall issue a summons, and the United States Marshal shall serve, without prepayment of fees, the summons, a copy of the complaint with attachments, and a copy of this order on the Contra Costa County Detention Health Services at 100 Ward Street, Martinez, California, 94553

2. Defendant CCCDHS shall file an answer in accordance with the Federal Rules of Civil Procedure.

3. To expedite the resolution of this case:

a. No later than **August 30, 2024**, Defendant CCCDHS shall file a motion for summary judgment or other dispositive motion.<sup>1</sup> The motion shall be supported by adequate factual documentation and shall conform in all respects to Federal Rule of Civil Procedure 56, and shall include as exhibits all records and incident reports stemming from the events at issue. If Defendant CCCDHS is of the opinion that this case cannot be resolved by summary judgment, he shall so inform the Court prior to the date the summary judgment motion is due. All papers filed with the Court shall be promptly served on Plaintiff.

b. At the time the dispositive motion is served, Defendant CCCDHS shall also serve, on a separate paper, the appropriate notice required by *Rand v. Rowland*, 154 F.3d 952, 953-954 (9th Cir. 1998) (en banc). See *Woods v. Carey*, 684 F.3d 934, 940-941 (9th Cir. 2012).

c. Plaintiff's opposition to the dispositive motion, if any, shall be filed with the Court and served upon Defendant CCCDHS no later than 28 days from the date the motion is filed. Plaintiff must read the attached page headed "NOTICE -- WARNING," which is provided to him pursuant to *Rand v. Rowland*, 154 F.3d 952, 953-954 (9th Cir. 1998) (en banc).

d. Defendant CCCDHS shall file a reply brief no later than 14 days after the opposition is filed.

e. The motion shall be deemed submitted as of the date the reply brief is due.

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<sup>1</sup> Alternatively, Defendant CCCDHS may file a notice of joinder in the pending motion for summary judgment filed by the other Defendants.

1 No hearing will be held on the motion unless the Court so orders at a later date.

2 4. The served Defendants Colley, Perkinson, Cantando and the Antioch Police  
3 Department shall SHOW CAUSE on or before **June 12, 2024**, why Plaintiff's motion to compel  
4 (ECF No. 92) should not be granted.

5 **IT IS SO ORDERED.**

6 Dated: May 30, 2024

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9 JACQUELINE SCOTT CORLEY  
United States District Judge

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